

New England Soft Serve



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Finance, Revenue and Bonding Committee
c/o Matt Macunas,
Legislative Aide to:
Deputy Speaker of the House Linda Orange
and State Representatives
450 Capitol Avenue
Hartford, CT 06106-1379

Re: Manufacturing Machinery & Equipment Exemption

Dear lawmakers and committee members,

Thank you for considering my request for an amendment to this legislation. I believe that my current request to you and my past requests to be heard by the OPM are with merit. My position is twofold and is as follows.

The first part of my position has to do with the intent and practicality of the law. It would be my expectation that the intent of this legislation when it was written and passed, was NOT to differentiate between my manufacturing operation, being mobile, and its affect on Connecticut's economic well being, and that of an ice cream manufacturer whose operation is part of a fixed location. From a practical standpoint, we both make ice cream using the same manufacturing equipment and we both generate revenue for the State in the form of property tax, sales tax, withholding and income tax. In addition, we both create jobs, buy materials and supplies from other Connecticut companies and contribute to the vitality of the service sector of Connecticut's economy. If the intent of the law was too exclude manufacturing operations that happen to be mobile, then I believe that the language of the law would have been without ambiguity, which it is not. Which leads to the second part of my position which is how the law could be interpreted now. My interpretation of the law as it is written is such that the law does

not exclude my very mobile manufacturing facility from the exemption.

The crux of this disagreement lies in subsection (ii) which states:
["Manufacturing facility means that portion of a plant, building or other real property improvement used for manufacturing,...."]

My position is that I own an ice cream plant, it is *NOT* part of real property *NOR DOES IT HAVE TO BE* part of real property based on the above definition of a manufacturing facility.

The OPM takes the position that based on the law as it is written, a manufacturing facility *MUST* be a part of real property. While this position may not at first glance seem flawed, in my opinion, closer dissection of the words and grammar will reveal otherwise.

The function of the coma in this sentence is that it separates the first **noun**, "*plant*", from the succeeding pair of **nouns** that are joined with the conjunction, "*or*", "*building or improvement*". These three **nouns** are all part of one list.

The **adjectives**, "*other real property*", are clearly being applied to the **noun**, "*improvement*", as these adjectives immediately precede it. Additionally, these adjectives are applied to the last **noun**, "*building*", because of the absence or omission of a comma separating these **nouns**, "*building*", and "*improvement*".

(It is worth noting that had a comma been placed after the **noun** "*building*", the **adjectives**, "*other real property*", would have only applied with **certainty** to the **noun**, "*improvement*".) I digress.

The use of the conjunction "*or*" in this list means that there are three choices, (*plant, building, improvement*) any of which will satisfy the criteria being outlined for what a manufacturing facility is.

Consider the following sentence:

"According to Mr. Smith's resume, he participated in the North American Sculpture Society's, Artist of Distinction Competition, while studying art at Bacon Academy, Lyme Academy of Fine Arts or other New England Colleges.

Now, is there any problem with this sentence grammatically? NO

Being that you are probably not from Colchester, you may not be aware that Bacon Academy is a high school in Colchester and NOT a New England College. It is reasonable and understandable how someone not familiar with the area might INCORRECTLY ASSUME that Bacon Academy is a college. Is the sentence written in such a way that all the schools listed must be post-secondary? No, it is not. Could the writer have made the information less ambiguous? Absolutely. Consider the following:

Suppose for sake of argument and explanation, that there's another Bacon Academy in Maine that actually IS a college. If the writer wanted to ensure that the reader understood that it was ONLY colleges being spoken of, he could have written the following, "According to Mr. Smith's resume, he participated in the North American Sculpture Society's, Artist of Distinction Competition, **during his post-secondary art education** at Bacon Academy, Lyme Academy of Fine Arts or other New England Colleges. Here the sentence is written with the *necessary* precondition of what the list that follows includes, specifically, post-secondary institutions of education, commonly referred to as colleges.

Likewise, the writer of this legislation could have written the following, "Manufacturing facility means **any real property including** that portion of a plant, building or other real property improvement used for manufacturing," Here the sentence is written with the *necessary* precondition of what the list that follows includes, specifically, real property. In this (*hypothetical*) sentence there is no ambiguity, a manufacturing facility MUST be part of real property.

That's NOT what the writer of this legislation wrote.

I contend that I own and operate an ice cream manufacturing "plant" which is one of three possible choices (*plant, building, improvement*) outlined in the list.

Now, although one might assume that all plants are part of real property, this is not the case for my operation and the definition of a "plant" from Webster's Dictionary allows for that distinction.

That definition is as follows: **plant**, *noun*, **4**. The equipment, including the fixtures, machinery, tools, etc., and **often** the buildings necessary to carry out an industrial business: i.e.. *a manufacturing plant*.

The operative word in this definition is **"often"**. While a plant is often part of a "building", thus real property, it is not an absolute, by definition. In my case, my manufacturing plant includes the equipment (*a Taylor model 8756 soft serve ice cream machine*) that I have applied for an exemption for and which happens to be installed in a trailer. I have enclosed a brochure that includes photos of my manufacturing facilities.

Thank you for your attention to this matter.

Sincerely yours,

David Dander
New England Soft Serve